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TO RUEHC/SECSTATE WASHDC 3865
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RUEHKM/AMEMBASSY KAMPALA 2443
RUEHKH/AMEMBASSY KHARTOUM 1724
RUEHLO/AMEMBASSY LONDON 2494
RUEHFR/AMEMBASSY PARIS 2418
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SIPDIS

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LONDON AND PARIS FOR AFRICA WATCHERS

E.O. 12958: N/A

TAGS: [KDEM](#) [PGOV](#) [PREL](#) [KE](#)

SUBJECT: KENYA ELECTIONS: CREDIBLE VOTE LIKELY, BUT WE'RE
MONITORING TRIP WIRES

REF: A. NAIROBI 4647 AND PREVIOUS

[1](#)B. NAIROBI 3675

[1](#)1. (SBU) SUMMARY: Less than three weeks from the election, we remain confident that the exercise will be generally free and fair. This confidence is based on six pillars: an independent and non-partisan electoral commission, free and vibrant civil society organizations and media, responsible behavior by police, vigilance on the part of political rivals, a robust domestic and international observation effort, and Kenya's free political climate. Political violence, appeals to ethnic hatred, misuse of government resources, subversion of ECK procedures, and partisan behavior of provincial officials are our chief areas of concern about Kenya's electoral process. For each, we have specific trip wires that would lead to intervention, either publicly or privately, as circumstances warrant. END SUMMARY.

Indicators Point to Fair, Transparent & Credible Election

[1](#)2. (SBU) We continue to closely monitor all aspects of Kenya's election process, looking for opportunities to bring USG influence to bear on behalf of our goal: a fair, transparent and peaceful election. Less than three weeks from the election, we remain confident that the election will be generally free and fair. This confidence is based on six pillars: an independent and non-partisan electoral commission, free and vibrant civil society organizations and media, responsible behavior by police, vigilance on the part of political rivals, a robust domestic and international observation effort, and Kenya's free political climate.

[1](#)3. (SBU) The Electoral Commission of Kenya (ECK): The ECK remains firmly under the control of its Chairman, Samuel Kivuitu. This is a good thing. There were fears in some quarters that newly appointed commissioners, many of whom are presumed to be pro-Kibaki partisans, would overwhelm the non-partisan Chairman and diminish his authority. This has not happened. Kivuitu has skillfully managed the commission and kept public opinion on his side. Kivuitu managed a number of administrative reforms and compromises that augur well for election day success. For example, realizing that the voter register contains numerous erroneous entries, Kivuitu pushed through a ruling, with political party

agreement, that double registered voters would retain their franchise as long as they sign a binding agreement to vote only once. Those registered more than twice would be purged from the rolls. Kivuitu also managed to pass a similar ruling concerning distribution to polling officials of the commission's voter register, again with consent of the political parties. He consistently prioritizes broad participation and transparency over strict controls that unfairly exclude voters, given the problematic state of the voter rolls.

14. (SBU) Kivuitu has also won respect by striking out publicly against senior politicians and government officials who make unfounded accusations against his commission. The Electoral Commission of Kenya's strong record in administering elections in a non-partisan manner is our principal reason for predicting a credible process.

15. (SBU) Civil Society & Media: Kenya's vibrant, free and outspoken civil society groups and media also inspire confidence in the process. Every few days a major civil society group holds a well attended press conference to highlight an aspect of the process and finger institutions and individuals who they hold responsible for malfeasance. The media is covering the process minutely, even reporting on the arrival of freshly printed ballot papers and their conditions of storage. Political advertising is robust and unfettered. Debate on the editorial pages rages. The electronic media has been equally engaged, although some outlets are developing a reputation for biased coverage. Still, in today's Kenya there is such a diversity of voices available to voters that no candidate can credibly claim to be shut out.

16. (SBU) The Kenya Police Service: The police force has so far surprised its many critics by behaving in a professional and politically neutral manner. Police have detained political miscreants from both sides, including two Kenyan Administrative Police officials caught distributing anti-Raila hate literature. Police have also questioned an Assistant Minister regarding his involvement in the transport of weapons found in his official vehicle. Many lament the long-standing law enforcement tradition in Kenya of pursuing foot soldiers while sparing their well known and politically connected generals. For the most part, this has not changed, although we know some practitioners of political violence have been directly warned to desist. Under civil society and international community pressures (including the U.S. Mission), the police commissioner publicly agreed to provide security to women candidates, who suffer more than their male colleagues from violent intimidation. We have heard from numerous women candidates that implementation of the commissioner's promise has been inconsistent so far. We are advocating a more thorough and systematic treatment of this serious problem.

17. (SBU) Mutual Vigilance: The fact that this election is so competitive is in itself a cause for confidence. The two top parties are watching one another's every move, and declaiming from the rooftops any perceived malpractices of their opponents. Opposition leader Odinga is especially prone to launching pre-emptive strikes against his opponents and (unfairly in our view) against the ECK. All sides have senior bureaucrats in their camp ready to leak news of any electoral skullduggery to the concerned parties.

18. (SBU) Domestic & International Observation: ECK has welcomed and encouraged election observer missions, both domestic and international. Religious organizations and a wide array of civil society groups, some of which have considerable experience in election observation, are striving to field at least one observer in each of the 27,000 polling stations. Twenty-five resident diplomatic missions, the European Union, the Commonwealth, and the African Union will also field observation missions. The US Mission will field over 150 observers and facilitate an official observer delegation headed by former Assistant Secretary Constance Newman.

¶9. (SBU) Civil Freedom: Finally, Kenya's five-year old climate of civil freedom contributes to our confidence in the process. As one elderly rural voter in a remote region told PolCouns, "Under Moi and Kenyatta we did whatever the District Commissioner and his men told us to do. No one wanted to pay the price of refusing them. These days when the District Officer and his chiefs tell us to support the government, we tell them to their face that we are free to vote for whoever we want."

Trip Wires: Looking Out for Danger Signs

¶10. (SBU) Political violence, appeals to ethnic hatred, misuse of government resources, subversion of ECK procedures, and partisan behavior of provincial officials are our chief areas of concern about Kenya's electoral process. For each, we have specific trip wires that would lead to intervention, either publicly or privately as circumstances warrant.

¶11. (SBU) Political Violence: Political violence is being practiced by some parliamentary candidates from all three major political parties. We are not witnessing the widescale, centrally organized political-ethnic violence that characterized Kenya's first two multiparty elections in 1992 and 1997. When violence threatens to escalate from isolated incidents to wholesale destruction, which is currently the case in the Molo region of Rift Valley Province, public outcry and protests from civil society, religious organizations and political leadership is fierce. We have added our voice to condemn both isolated incidents (the attack on a woman candidate in Eastern Province, see ref B) and more widescale violence. Our trip wire for changing our positive view of the election process is widespread political violence targeting specific communities so as to change turnout (as occurred in '92 and '97). So far, this level of

violence has only occurred in parts of one constituency, and so does not have ramifications for the national vote. The Mount Elgon clashes (Western Province) are chronic and not directly related to the election. We will continue to implement specific programs to curb violence, about which we are reporting septel.

¶12. (SBU) Appeals to Ethnic Hatred: We have seen extremely offensive, hateful political statements and literature aimed at encouraging ethnic hatred emanating from the two largest parties (Kibaki's PNU and Odinga's ODM). The great majority of such material is coming from the Kibaki camp, despite the President's frequent admonitions for his supporters to avoid such tactics. The media and civil society have vociferously condemned hate propaganda. The police have arrested distributors of this material, including those acting on behalf of the Kibaki campaign. We have brought to the attention of leaders in both camps specific examples of hate speech we have heard and read. Our trip wire for hate speech effecting the election is widescale use of vernacular radio to spread extremist messages (a la Radio Mille Collines in Rwanda).

¶13. (SBU) Misuse of Government Resources: Kenya's Human Rights Commission and the ECK have both documented and condemned misuse of official resources for campaign purposes. The press and civil society have done the same. The police have acted against officials using government vehicles for campaign purposes. Still, the practice continues, but with more restraint than was the case in past elections. Our trip wire for misuse of government resources is massive, blatant and unrestrained use of government funding and assets on behalf of the president's campaign to the extent that it threatens to seriously tilt the playing field in his favor.

¶14. (SBU) Subversion of ECK: Partisan ECK commissioners could use their authority to influence ECK polling clerks, presiding officers and returning officers to depress the vote in certain areas and pad it in others. Conceivably, they could also attempt to substitute pre-marked ballots or use

other rigging schemes. There are a number of controls in place (such as vote counting at the polling station in full public view) that would likely defeat most such plans. We strongly expect that Chairman Kivuitu would keep his word to resign in a publicly spectacular fashion if the commission was subverted in this fashion. Our trip wire is ECK permissiveness of fraud extensive enough to effect the outcome.

¶15. (SBU) Partisan Officials: The provincial administration answers directly to the Minister of Internal Security and Provincial Administration, John Michuki. His father was a provincial official under the British, as was he as a young man. Michuki is definitely subscribes to the old school "top-down" view of governance. We have seen indications that Michuki has instructed his officials to support the government. In some areas this indeed appears to be happening, but to no great effect. In other areas provincial officials appear to be mindful of the possibility that they may be serving under a new government in a few weeks time, and so are behaving in a reasonably neutral fashion. Our trip wire is widespread, blatant and effective partisan behavior on part of the administration to the extent that the election outcome is or will be effected.

RANNEBERGER